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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,413	07/27/1999	MITSUO NIIDA	35.C13685	5490
5514	7590	03/28/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			VILLECCO, JOHN M	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/361,413	<b>Applicant(s)</b> NIIDA ET AL.	
	<b>Examiner</b> John M. Villecco	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-45 is/are rejected.
- 7) ☒ Claim(s) 34-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed November 8, 2004 have been fully considered but they are not persuasive.
2. Regarding claim 25, applicant argues that neither Suga nor Ueno teaches a "first command that includes data indicating a shape selected in the shape selection step and data indicating an area set in the area setting step". However, the claim language states "a first command sending step of sending a first command to the image capture apparatus, wherein the first command includes data indicating a shape selected in the shape selection step and data indicating an area set in the area setting step". From an examination of the specification, it appears that applicant is trying to claim the subject matter shown in Figures 11-16. Although neither Suga nor Ueno teaches that the shape and area of the frame are sent together, this is not a requirement of the claim language. The claim only states a first command setting step of sending a first command, wherein the first command includes shape and area data.

In this regard, it is the opinion of the examiner that the combination of Ueno and Suga does read on the claimed invention. Both Ueno and Suga both disclose selecting either a shape or a size and sending that information to the camera, before sending a second command to perform processing on the designated area. The selection of the size of a frame as in Suga and the selection of the shape of the frame, as in Ueno, is interpreted to be the first command. The limitation of sending a first command is met since both the shape, as disclosed in Ueno, and the size, as disclosed in Suga, are both interpreted to be the first command. In other words, if the

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shape and area of the frame are sent to the camera, the first command would be sent to the camera during a first command sending step. Whether the first command sending step involves sending the shape and size at the same time is irrelevant. The step of sending either one or both of the shape and size would be obvious since the sending of the shape and size can be done either together or separately, based on the claim terminology. One of ordinary skill in the art at the time the invention was made would have found it obvious to select the size and shape of an area on which to perform an operation, based on the teachings of Suga and Ueno.

3. For the reasons stated above, the rejection from the previous office action will be maintained.
4. Additionally, applicant has added claims 33-45. Please see the rejection for claims 32-45 presented below.

### ***Claim Objections***

5. Claims 34-38 are objected to because of the following informalities:
  - Claims 34-38 appears to be similar to claims 27-31. However, claims 27-31 were directed toward a method claim. Claims 34-38, on the other hand, are directed toward an apparatus, but claims 34-38 are drafted in a manner consistent with a method claim. Terminology consistent with an apparatus claim is required for claims 34-38.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 25-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suga et al. (U.S. Patent No. 6,313,875) in view of Ueno et al. (U.S. Patent No. 5,625,415).**

8. Regarding *claims 25 and 39*, Suga discloses an apparatus for remotely controlling a camera that allows a user to select a desired area within an image in which to control processing. More specifically, the system includes a plurality of cameras (2, 7, 12) and a plurality of terminals (3, 8, 13). A user at one of the terminals is capable of controlling any of the cameras. As shown in Figure 5, the user is capable of selecting any of the inputs and controlling the image from the camera using the menu (105). Furthermore, as shown in Figure 12A-12D, the user is able to select a range within the image and displaying the range selected by the user. See column 10, lines 18-44. This step serves as the area selection step since a size of the frame is being determined. Furthermore, after the user sets the frame size, a command is sent to the camera informing it of the size of the frame that has been set (col. 10, lines 5-8). The user can then set any one of an exposure, focus, or white balance according to the selected area of the image. The user is able to form an image based on the white balance of the selected area thus, forming a better image. Therefore, it would have been obvious to one of ordinary skill in the art to

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remotely control a camera by selecting an area within an image in which to control the processing of the image so that a high quality image is formed.

Suga, however, fails to specifically disclose a shape selection step for selecting the shape of a frame to be set within the captured image. Ueno, on the other hand, discloses that it is well known in the art to select the shape of an area to be set within an image. More specifically, as disclosed in column 9, lines 12-52, and Figures 5-9 and 14-18, Ueno discloses the ability to select either a window or a point within the image in order to designate an area in which to perform autoexposure or autofocus. This feature allows a user to select various areas and ranges within an image in which to perform autoexposure or autofocus, thereby providing the user with a plurality of options to perform these operations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the camera of Suga to select various shapes within an image in which to perform autoexposure or autofocus.

Both Ueno and Suga both disclose selecting either a shape or a size and sending that information to the camera, before sending a second command to perform processing on the designated area. The selection of the size of a frame as in Suga and the selection of the shape of the frame, as in Ueno, is interpreted to be the first command. The limitation of sending a first command is met since both the shape, as disclosed in Ueno, and the size, as disclosed in Suga, are both interpreted to be the first command. In other words, if the shape and area of the frame are sent to the camera, the first command would be sent to the camera during a first command sending step. Therefore, since the claim terminology does not require that the shape and area be sent at the same time, the combination of Ueno and Suga teaches the step of sending first command data that includes shape and area information.

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9. As for *claims 26, 33 and 40*, Suga discloses that the frame is a rectangle. Ueno discloses that the frame can be either a rectangle or a single pixel.

10. With regard to *claims 27, 34 and 41*, Suga discloses that the frame is displayed on the display on top of the captured image.

11. Regarding *claims 28, 35 and 42*, Suga discloses the ability to select a type of operation to be performed using the designated frame area. Suga discloses that any one of exposure, focus, and white balance, can be performed on the image using the selected area. After the area and operation are selected, they are transferred to the camera. See column 10, lines 5-8.

12. As for *claims 29, 36, and 43*, Suga discloses that any on of exposure, focus, and white balance can be performed on the image using the selected area.

13. With regard to *claims 30, 37, and 44*, Suga discloses that the frame is displayed on the display on top of the captured image.

14. *Claim 32* is considered substantively similar to claim 25 with the added limitation of a control apparatus, which includes a communication unit and a control unit. As shown in Figure 2 of Suga, each terminal includes a system control circuit (122) coupled to a network interface circuit (125) for communicating with the other terminals. The control unit controls the operation of terminal (col. 5, lines 29-30) and the network interface circuit (125) for connecting to the network (col. 5, lines 34-35). For an explanation of the additional limitations found within claim 32, see the discussion of claim 25 above.

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15. **Claim 31, 38, and 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suga et al. (U.S. Patent No. 6,313,875) in view of Ueno et al. (U.S. Patent No. 5,625,415) and further in view of Kawamura et al. (U.S. Patent No. 6,522,354).**

16. Regarding *claim 31*, as mentioned above in the discussion of claim 30, both Suga and Ueno disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses changing a color of the frame depending on the determined function. Kawamura, on the other hand, discloses that it is well known in the art to display frames in different colors depending upon a selected action. More specifically, Kawamura discloses the thumbnail images can be displayed using different color frames depending on where the image was transferred. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made change the frame in Suga depending upon whether the action to be taken is exposure, focus, or white balance, so that the user is visually informed on what action will be taken on the designated area.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (703) 305-1460 (Crystal City) or (571) 272-7319 (Carlyle). The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929 (Crystal City) or (571) 272-7308 (Carlyle). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Villecco  
March 8, 2005



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